IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9231 of 2006

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSL (INDIA) LTD - Petitioner(s)
Versus
KISHOREBHAI MANGALDAS PATEL - Respondent(s)

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Appearance :

MR VIMAL M PATEL for Petitioner(s) : 1,

MR SHAKEEL A QURESHI for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 13/09/2006

ORAL JUDGMENT

Rule returnable today. Mr.Qureshi waives service of rule. With the consent of the learned

advocates the petition is heard and disposed of today.

This petition preferred under Articles 226 and 227 of the Constitution challenges the order dated 28th September, 2005 made by the Industrial Tribunal, Vadodara in Appeal (IC) No.17 of 1997 and the orders dated 24th September, 2002 and dated 31st January, 2004 made by the Labour Court, Bharuch in T. Application No.2 of 1997 and in Misc. Application No.37 of 2002 respectively.

It appears that in the above-mentioned T. Application No.2 of 1997 the respondent-workman had challenged the order of termination of his service. The said application came to be allowed on 24th September, 2002. Upon receipt of the award of the Labour Court the petitioner approached the Labour Court in Misc. Application No.37 of 2002 for restoration of the T. Application. According to the petitioner the notice issued by the Labour Court was received by its Manager who did not report to the higher authority. Consequently, the petitioner could

not attend or contest the T. Application filed by the workman. The said Misc. Application No.37 of 2002 came to be rejected on 31st January, 2004.

Feeling aggrieved, the petitioner preferred the above referred Appeal No.17 of 1997 before the Industrial Tribunal, Vadodara. The said Appeal was delayed by some 45 days. The application Exh.2 filed by the petitioner for condonation of delay has been rejected by the impugned order dated 28th September, 2005. Therefore, the present petition.

On the above referred facts and in the circumstances of the case, the petition is allowed. The impugned order dated 28th September, 2005 passed by the Industrial Tribunal, Vadodara below application Exh.2 in Appeal No.17 of 1997 is quashed and set aside. The delay is condoned. Appeal No.17 of 1997 is allowed. The order dated 31st January, 2004 made by the Labour Court, Vadodara in Misc. Application No.37 of 2002 is quashed and set aside. The Misc. Application No.37 of 2002 stands allowed. The judgment and order dated 24th September, 2002

passed by the Labour Court, Vadodara in T. Application No.2 of 1997 is quashed and set aside. The T. Application No.2 of 1997 is revived. The Labour Court, Vadodara shall hear and decide the T. Application No.2 of 1997 afresh after affording both the parties opportunity to file the pleadings, to lead evidence and to hear the parties.

This order is made on conditions that, the petitioner will, within four weeks from today, pay a sum of Rs.50,000/- to the workman towards the back-wages; will pay a cost of Rs.5,000/- to the workman, will file its reply in the above referred T. Application No.2 of 1997 and will thereafter diligently attend the Court proceedings. In the event the workman succeeds in aforesaid T. Application No.2 of 1997 and the back-wages are awarded the aforesaid sum of Rs.50,000/- shall be adjusted against the amount of back-wages which may become due and payable to the workman. In the event the workman loses in the aforesaid T. Application No.2 of 1997, the petitioner will not be entitled to recover the aforesaid sum of Rs.50,000/-. In the event the

aforesaid conditions are not complied with as directed, this order shall stand cancelled and the orders of the Courts below shall stand revived.

Subject to the above directions, the petition is allowed. Rule is made absolute.

(MS. R.M.DOSHIT, J.)

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